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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/064,439

Filing Date: July 14, 2002

Appellant(s): HARRIS, SCOTT C.

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Scott C. Harris  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 09/27/2010 appealing from the Office action  
mailed 03/25/2010.

**(i.) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(ii.) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(iii.) Status of Claims**

The following is a list of claims that are rejected and pending in the application:

Claims 2-16, 18, 22-32 and 65-69.

**(iv.) Status of Amendment**

Applicant's amendment filed on 06/25/2010 has been entered in response to Petition Decision filed on 02/10/2011. The amended claims overcome previous rejections based on 35 U.S.C. 112 and 35 U.S.C. 101.

**(vii.) Claim Appendix**

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

**(viii.) Evidence Relied Upon**

US Patent No.: 5,835,896 to Fisher et al.

US Patent No.: 7,058,582 to Powell

US Patent No.: 6,366,891 to Feinberg

**(ix.) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejection – USC 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2, 6-16, 18, 22-32, 65-67, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No.: 5,835,896 to Fisher et al., in view of US Patent No.: 7,058,582 to Powell.

As per claim 8, Fisher teaches a system, comprising:

a web server, producing a web page which is available on the Internet, wherein said web server is a server that hosts auctions of items for sale and maintains auction bids for items for sale over the Internet (see column 4, line 32-45, host computer is web server); and

and wherein said information determining part also sends e-mail messages that include information about items in said auctions for sale over the Internet, on which items a user has been outbid (see column 6, line 46-67; column 8, line 24-29; and column 9, line 36-47).

The examiner notes however, Fisher's invention uses "bid form" for placing bids (see column 7, line 50-65), whereas the present invention uses email with plain text for placing bids. As such, Fisher does not explicitly teach an information determining part associated with said web server which receives e-mail messages and obtains information from said e-mail messages, said information being in a form which can interact with said web page being produced by said web server; wherein said information determining part having a keyword recognition system which recognizes at least one word in at least one of the email messages to determine automatically a desired action of said email without requiring a special form for the email to recognize said at least one word.

Powell teaches an information determining part associated with said web server which receives e-mail messages and obtains information from said e-mail messages, said information being in a form which can interact with said web page being produced by said web server (see column 2, line 7-12; column 4, line 3-5);

wherein said information determining part having a keyword recognition system which recognizes at least one word in at least one of the email messages to determine automatically a desired action of said email without requiring a special form for the email to recognize said at least one word (see column 2, line 20-25; prior art teaches interpreting email in plain text, parsing and recognizing desired action in the plain text, and executing commands described in the plain text).

Even though Powell does not explicitly teach using email in plain text and keyword recognition system for placing bids, the prior art suggests that the technology is used to replace the special forms for executing desired action on a web page for the purpose of eliminating the need for specialized knowledge in the web (see column 2, line 7-12). The Fisher reference teaches using specialized "bid form" for placing bids, so it would have been obvious to one of ordinary skill in the art to modify the Fisher reference with the technology taught in Powell. Furthermore, Fisher teaches placing a new bid via an email reply (see column 8, line 24-29), and thus the prior art anticipates a keyword recognition system to parse and detect the command in the emails. One of ordinary skill in the art would have been motivated to combine the references in order to eliminate the need for specialized knowledge in the web.

As per claim 2, Fisher does not explicitly teach wherein said e-mail messages include e-mail messages in plain text form.

Powell teaches wherein said e-mail messages include e-mail messages in plain text form (see column 2, line 7-12; column 4, line 3-5).

Even though Powell does not explicitly teach using email in plain text and keyword recognition system for placing bids, the prior art suggests that the technology is used to replace the special forms for executing desired action on a web page for the purpose of eliminating the need for specialized knowledge in the web (see column 2, line 7-12). The Fisher reference teaches using specialized "bid form" for placing bids, so it would have been obvious to one of ordinary skill in the art to modify the Fisher reference with the technology taught in Powell. One of ordinary skill in the art would have been motivated to combine the references in order to eliminate the need for specialized knowledge in the web.

As per claim 6, Fisher at least implies wherein said information determining part automatically recognizes phrases that include the word "bid" in said email as one of said words and where said action is a bid on one said items for sale over the Internet (see column 8, line 24-29; when the bidder replies the outbid message via email, Fisher's invention automatically recognizes the amount of increased bid in the email and places the bid for the bidder).

Powell teaches a recognition system which parses the plain text in the email, interprets the request of the email, and automatically executes the requested command (see column 2, line 7-8 and line 20-25). In the example of the prior art, the invention

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recognizes the word "change", and it interprets the command as "update" or "modify" to the web page and automatically perform the desired action requested in the email (see column 4, line 1-24).

Since Fisher teaches placing new bids by a reply email including an amount increase bid and Powell teaches a recognition system which interprets command word in the email and executes the command, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the Fisher reference with the teaching from Powell to come up with automatically recognizing a command word, such as "bid", in auction and automatically execute the command. One of ordinary skill in the art would have been motivated to combine the references in order to use plain text to request desired action via email.

As per claim 7, Fisher teaches wherein said information determining part also sends e-mail messages indicative of information about said auctions (see column 6, line 46-67; column 8, line 24-29; and column 9, line 36-47).

As per claim 9, Fisher teaches wherein said information determining part produces and sends messages which include a session identification indicator that identifies said auction information, and that where said session identification indicator is a unique value, that unambiguously represents an item in said auction information (see column 6, line 49-54; the examiner notes when Fisher teaches that "electronic mail notification messages preferably contain the relevant merchandise information, the current high bid, the bid increment, etc." clearly represents Applicant's "session identification identifier that identifies said auction information, and that where said session identification indicator is a unique value that unambiguously represents an item in said auction information"; the Fisher invention must include this feature in order to let bidder to place new bid on the correct item).

As per claim 10, Fisher teaches wherein said information determining part detects a reply to a plain text message which reply including said session identification indicator, and takes action on a specified auction based on said session identification indicator (see column 8, line 15-29).

As per claim 11, Fisher teaches wherein said information determining part also sends e-mail messages indicative of actions occurring on said web page (see column 6, line 48-57).

As per claim 12, Fisher teaches wherein said e-mail messages include a session ID indicative of said actions where said session ID is a unique value, that unambiguously represents an item to be bid on (see column 6, line 49-54; the examiner notes when Fisher teaches that "electronic mail notification messages preferably contain the relevant merchandise information, the current high bid, the bid increment, etc." clearly represents Applicant's "session identification identifier that identifies said

auction information, and that where said session identification indicator is a unique value that unambiguously represents an item in said auction information"; the Fisher invention must include this feature in order to let bidder to place new bid on the correct item).

As per claim 13, Fisher teaches wherein said session ID is included as part of a return address in the e-mail message (see column 6; lines 46-57). Examiner notes that the ability to, "enter a new bid by replying to the electronic mail message and sending it back to the system" as taught by Fisher represents Applicant's session ID included as part of a return address.

As per claim 14, Fisher teaches wherein the session ID is used to interact with said auction on said Web page (see column 6; lines 46-57). As explained above with respect to claim 12, under the broadest reasonable interpretation of this limitation the e-mail message need only contain an ID. In the case of Fisher the email notification includes information which identifies the auction and allows the user to reply to or enter a new bid by replying to the electronic mail message.

As per claim 15, Fisher teaches wherein said action includes placing a new bid (see column 8, line 24-27).

As per claim 16, Fisher teaches wherein said keyword recognition system in said information translating determining part automatically detects a new bid amount as part of a sent message (see column 8, line 24-29).

As per claim 22, Fisher teaches a method, comprising:

producing a web page on a server that is connected to the Internet, wherein said web page is a web page for a server that hosts Internet based auctions (see column 4, line 32-45, host computer is web server); and

receiving a first e-mail message on the server, which e-mail has instructions to interact with said web page (see column 8, line 24-29);

wherein said item is an item on which a user has been previously outbid (see column 6, line 46-67; column 8, line 24-29).

Examiner notes however, Fisher does not teach on the server, using a keyword recognition system to automatically recognize at least one word in the first email message, to determine automatically a desired action of said email without requiring a special form for the first email message to recognize said at least one word, wherein said at least one word comprises a word that instructs receiving comprises receiving an instruction to bid on an item on an Internet based auction

Powell teaches on the server, using a keyword recognition system to automatically recognize at least one word in the first email message, to determine automatically a desired action of said email without requiring a special form for the first email message to recognize said at least one word (see column 2, line 20-25; prior art teaches interpreting email in plain text, parsing and recognizing desired action in the plain text, and executing commands described in the plain text), wherein said at least one word comprises a word that instructs receiving comprises receiving an instruction to bid on an item on an Internet based auction (see column 2, line 7-12; column 4, line 3-5).

Even though Powell does not explicitly teach using email in plain text and keyword recognition system for placing bids, the prior art suggests that the technology is used to replace the special forms for executing desired action on a web page for the purpose of eliminating the need for specialized knowledge in the web (see column 2, line 7-12). The Fisher reference teaches using specialized "bid form" for placing bids, so it would have been obvious to one of ordinary skill in the art to modify the Fisher reference with the technology taught in Powell. Furthermore, Fisher teaches placing a new bid via an email reply (see column 8, line 24-29), and thus the prior art anticipates a keyword recognition system to parse and detect the command in the emails. One of ordinary skill in the art would have been motivated to combine the references in order to eliminate the need for specialized knowledge in the web.

As per claim 18, Fisher teaches further comprising sending a second e-mail that has instructions on a specific interaction with said web page (see column 6, line 46-57; column 8, line 15-29).

As per claim 23, Fisher teaches wherein said web page is an e-commerce site (see column 4, line 32-45).

As per claim 24, Fisher teaches wherein said web page is a web page for a server that hosts Internet based auctions (see column 4, line 32-45, host computer is web server).

As per claim 25, Fisher teaches wherein said e-mail message includes a session ID indicative of an individual auction on said web page, where said session ID is a unique value, that unambiguously represents one of said individual auctions (see column 6, line 49-54; the examiner notes when Fisher teaches that "electronic mail notification messages preferably contain the relevant merchandise information, the current high bid, the bid increment, etc." clearly represents Applicant's "session identification identifier that identifies said auction information, and that where said session identification indicator is a unique value that unambiguously represents an item in said auction information"; the Fisher invention must include this feature in order to let bidder to place new bid on the correct item).

As per claim 26, Fisher implies wherein said keyword recognition system automatically recognizes phrases that include the word "bid" in said email as one of said words (see column 8, line 24-29; when the bidder replies the outbid message via email, Fisher's invention automatically recognizes the amount of increased bid in the email and places the bid for the bidder).

Powell teaches a recognition system which parses the plain text in the email, interprets the request of the email, and automatically executes the requested command (see column 2, line 7-8 and line 20-25). In the example of the prior art, the invention recognizes the word "change", and it interprets the command as "update" or "modify" to the web page and automatically perform the desired action requested in the email (see column 4, line 1-24).

Since Fisher teaches placing new bids by a reply email including an amount increase bid and Powell teaches a recognition system which interprets command word in the email and executes the command, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the Fisher reference with the teaching from Powell to come up with automatically recognizing a command word, such as "bid", in auction and automatically execute the command. One of ordinary skill in the art would have been motivated to combine the references in order to use plain text to request desired action via email.

As per claim 27, Fisher teaches further comprising replying to said first e-mail message with instructions to increase a bid (column 8, line 15-29).

As per claim 28, Fisher teaches wherein said e-mail message includes session ID information that represents said individual auction on which said user has been previously outbid, where said session ID is a unique value, that unambiguously represents one of said individual auctions (see column 6, line 49-54; the examiner notes when Fisher teaches that "electronic mail notification messages preferably contain the relevant merchandise information, the current high bid, the bid increment, etc." clearly represents Applicant's "session identification identifier that identifies said auction information, and that where said session identification indicator is a unique value that unambiguously represents an item in said auction information"; the Fisher invention must include this feature in order to let bidder to place new bid on the correct item).

As per claim 29, Fisher teaches further comprising replying to said e-mail message with said session ID information, and modifying a bid on said web page responsive to said replying (see column 6, line 46-57; column 8, line 15-29).

As per claim 30, Fisher teaches wherein said session ID is included as part of a return address in the e-mail message (see column 6; lines 46-57). Examiner notes that the ability to, "enter a new bid by replying to the electronic mail message and sending it

back to the system" as taught by Fisher represents Applicant's session ID included as part of a return address.

As per claim 31, Fisher teaches wherein said replying includes specifying an amount of a bid to be placed (column 8, line 26-29).

As per claim 32, Fisher teaches wherein said e-mail message includes a session ID indicative of an individual item on said web page, and where said session ID is a unique value, that unambiguously represents said individual item (see column 6, line 49-54; the examiner notes when Fisher teaches that "electronic mail notification messages preferably contain the relevant merchandise information, the current high bid, the bid increment, etc." clearly represents Applicant's "session identification identifier that identifies said auction information, and that where said session identification indicator is a unique value that unambiguously represents an item in said auction information"; the Fisher invention must include this feature in order to let bidder to place new bid on the correct item).

As per claim 65, Fisher teaches a system, comprising:

a web server, producing a web page which is available on the Internet, wherein said web server produces a web page that hosts auctions of items for sale and maintains auction bids for items for sale over the Internet (see column 4, line 32-45, host computer is web server); and

an information determining part associated with said web server which receives e-mail messages and automatically determines information from said e-mail messages in a form which can interact with said auctions on said web page being produced by said web server (see column 8, line 15-29);

wherein email messenger determines automatically that a bid action is being requested by said email, and automatically provides information about said bid action to said web server wherein said web server also accepts a bid based on said information about said bid action (see column 8, line 15-29).

Examiner notes however, Fisher does not teach wherein said information determining part having a keyword recognition system which recognizes at least phrases that include the word "bid" in an email message.

Powell teaches teach wherein said information determining part having a keyword recognition system (see column 2, line 20-25; prior art teaches interpreting email in plain text, parsing and recognizing desired action in the plain text, and executing commands described in the plain text).

Even though Powell does not explicitly teach using email in plain text and keyword recognition system for placing bids, the prior art suggests that the technology is used to replace the special forms for executing desired action on a web page for the purpose of eliminating the need for specialized knowledge in the web (see column 2, line 7-12). The Fisher reference teaches using specialized "bid form" for placing bids, so it would have been obvious to one of ordinary skill in the art to modify the Fisher reference with the technology taught in Powell. Furthermore, Fisher teaches placing a new bid via an email reply (see column 8, line 24-29), and thus the prior art anticipates a keyword recognition system to parse and detect the command in the emails. One of ordinary skill in the art would have been motivated to combine the references in order to eliminate the need for specialized knowledge in the web.

Furthermore, Powell teaches a recognition system which parses the plain text in the email, interprets the request of the email, and automatically executes the requested command (see column 2, line 7-8 and line 20-25). In the example of the prior art, the invention recognizes the word "change", and it interprets the command as "update" or "modify" to the web page and automatically perform the desired action requested in the email (see column 4, line 1-24).

Since Fisher teaches placing new bids by a reply email including an amount increase bid and Powell teaches a recognition system which interprets command word in the email and executes the command, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the Fisher reference with the teaching from Powell to come up with automatically recognizing a command word, such as "bid", in auction and automatically execute the command. One of ordinary skill in the art would have been motivated to combine the references in order to use plain text to request desired action via email.

As per claim 66, Fisher teaches wherein said information determining part produces and sends messages which include a session identification indicator that identifies said auction information, and that where said session identification indicator is a unique value, that unambiguously represents an item in said auction information (see column 6, line 49-54; the examiner notes when Fisher teaches that "electronic mail notification messages preferably contain the relevant merchandise information, the current high bid, the bid increment, etc." clearly represents Applicant's "session identification identifier that identifies said auction information, and that where said session identification indicator is a unique value that unambiguously represents an item in said auction information"; the Fisher invention must include this feature in order to let bidder to place new bid on the correct item).

As per claim 67, Fisher teaches wherein said session identification indicator is included as part of a return address in the e-mail message (see column 6; lines 46-57). Examiner notes that the ability to, "enter a new bid by replying to the electronic mail message and sending it back to the system" as taught by Fisher represents Applicant's

session ID included as part of a return address.

As per claim 69, Fisher teaches wherein the session identification indicator is used to interact with said actions on said Web page (see column 6; lines 46-57). As explained above with respect to claim 12, under the broadest reasonable interpretation of this limitation the e-mail message need only contain an ID. In the case of Fisher the email notification includes information which identifies the auction and allows the user to reply to or enter a new bid by replying to the electronic mail message.

Claim 3, 4, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No.: 5,835,896 to Fisher et al., in view of US Patent No.: 7,058,582 to Powell, and further in view of Official Notice.

As per claim 3 and 4, Fisher does not explicitly teach further comprising an e-mail pager or a cellular telephone, producing said e-mail messages.

The Examiner takes Official Notice that it was old and well known at the time of the present invention to use email pagers or cellular phones to send and receive email messages. In fact Applicant all but admits as much in the Appeal Brief filed 12/10/2008. On the first paragraph of page 9, Applicant states "This can be done without requiring that thin client to able to host or display a webpage. Rather, the client needs to be able to send e-mail messages, something that virtually every cell phone can do." Examiner notes that Applicant has not invented a cell phone that sends email nor an email pager, both of these were around long before Applicant's invention. Rather the asserted novelty lies in the system that receives the email messages, regardless of where the messages are generated.

Examiner further takes Official Notice that it is old and well known in the art for email users to employ email pagers and cellular phones for portability (i.e. to receive emails anywhere, not just at a computer terminal).

Accordingly, Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the user client of Fisher to specifically be either an email pager or cellular phone as is old and well known in the art. One of ordinary skill would have been motivated to modify Fisher to include email pagers and cellular phones so that the users of Fisher could place bids and receive notifications anywhere, not just at a computer terminal.

As per claim 68, Fisher does not teach wherein said session identification indicator is included as alphanumeric information in the email.

Official Notice is taken that using alphanumeric to represent an identification of an auction session or an item in the email is old and well known in the art. For example, eBay send notification email to auction winner with alphanumeric identification of the item.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the Fisher reference with the teaching from Official Notice to include alphanumeric session identification in the email for the benefit of unambiguously identifying an auction item to the bidder.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No.: 5,835,896 to Fisher et al., in view of US Patent No.: 7,058,582 to Powell, and further in view of US Patent No.: 6,366,891 to Feinberg.

As per claim 5, Fisher further teaches a bid validator that receives an email with a bid (see column 8, lines 24-29) then examines the bid for all necessary data (see column 7, lines 54-57).

Fisher fails to specifically teach a user ID and password as part of the email message/necessary data.

Feinberg teaches an automated auction system, in which users are required to submit a username and password with each bid (see column 8, lines 26-32). Feinberg teaches that this is done as a security measure to verify the user (see column 8, lines 26-32).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the data which is received and examined in Fisher to include a username and password as taught by Feinberg. One of ordinary skill in the art would have been motivated to make this modification in order to provide security by verifying the user, as taught by Feinberg.

#### **Post Rejection Remarks:**

##### **(x.) Response to Argument**

In response to applicant's amendment filed on 06/25/2010, examiner respectfully withdraws the rejection of claim 2-16 and 65-69 under 35 U.S.C. 112, first paragraph.

In response to applicant's amendment filed on 06/25/2010, examiner respectfully withdraws the rejection of claim 18 and 22-32 under 35 U.S.C. 101. Examiner notes that applicant has added that the claimed "server" includes a processor. Even though the specification does not explicitly disclose a processor, the specification teaches the invention is run on a computer (see paragraph 0006, 0037, and 0049), which inherently includes at least a processor. Therefore, examiner concludes that the amendment does not bring in new matter.

Examiner's answers to applicant's arguments regarding to the rejections of claims 2, 6-16, 18, 22-32, 65-67, and 69 under 35 U.S.C. 103(a) are as followed:

**Applicant's argument #1: as per claim 8, 22, and 65, "the hypothetical combination of Fisher in view of Powell is not a proper legal combination of prior art".**

As explained examiner's advisory action filed on 07/26/2010, Fisher teaches a web server for hosting an auction site, which sends to bidders email messages that include information about the item which has been outbid in the auction. Fisher further discloses a prior auction scheme via email. Email auction is performed when "bidders submit their bids on individual lots to an auctioneer via E-mail. The auctioneer reads the electronic mail bids and enters them in a database for bids. When the auction closes, the auctioneer notifies the winning bidders, usually via electronic mail" (see column 2, line 10-20). Thus, Fisher clearly teaches recognizing one word in at least one of the email messages to determine a desired action. Fisher's disclosure implies that

the auctioneer recognizes the word "bid" in email and determines the bidders' desired action as placing bid on the item.

The only difference between Fisher's disclosure and the present invention is that Fisher does not use a "keyword recognition system" to recognize bidders' command in the email. It is understood that auctioneer described in Fisher is a human operator, and the improvement of the present invention is to replace the human operator with computerized keyword recognition system. Examiner argues that such improvement would have been obvious to one of ordinary skill in the art, because replacing human labor with automated computer system is the general trend in the online commerce industry. Fisher discloses an attempt to automate the prior email auctioning system by utilizing "bid form", which is interpreted as specialized message for communicating bidding command to the auction system (see column 7, line 50-65). Even though Fisher's method of automating the known email auction scheme is different from that of applicant's invention, Fisher clearly provides a motivation for replacing human labor with automated computer system (column 5, line 6-27).

Examiner reasons that Fisher's deficiency is fulfilled by the Powell reference. The important teaching of Powell is not that a user can manipulate a webpage by email, it is that keyword recognition system, which recognizes user command in plain text in the email form, was known prior to the present invention. Powell teaches that a user sends an email with plain text command to a system, and then the software running in the system interprets command within the plain text and executes the user's desired action (see column 2).

Even though Powell is not related to auction, the prior art attempts to solve the same problem as Fisher does, which is to replace human operator with automated system (see column 5 line 18-22 of Fisher; also see column 1 of Powell). The result of replacing human operator with keyword recognition system would have been predictable to one of ordinary skill in the art. Therefore, Fisher and Powell can be properly combined by one of the ordinary skill in the art to come up with an invention similar to the present invention.

**Applicant's argument #2: as per claim 6, 8, 16, 22, 26, 32, and 65, the Fisher reference does not teach a keyword recognition system, which can recognize one word in the e-mail that indicates the subject of the e-mail.**

As discussed in argument #1, Fisher discloses email auction is performed when "bidders submit their bids on individual lots to an auctioneer via E-mail. The auctioneer reads the electronic mail bids and enters them in a database for bids. When the auction closes, the auctioneer notifies the winning bidders, usually via electronic mail" (see column 2, line 10-20). It is understood that the auctioneer in Fisher is a human operator who recognizes the keywords in the emails and performs appropriate action accordingly. Fisher then discloses an attempt to automate the prior email auctioning system by utilizing "bid form", which is interpreted as specified message for communicating bidding command to the auction system (see column 7, line 50-65). Even though Fisher's method of automating the known email auction scheme is different from that of applicant's invention, Fisher clearly provides a motivation for

replacing human labor with automated computer system (see column 5, line 6-27).

Examiner reasons that replacing human labor with automated computer system is the general trend in the online commerce industry and that keyword recognition system was known prior to the present invention, as evident in Powell. Therefore, it would have been obvious to one of ordinary skill in the art to modify the prior email auction scheme taught in Fisher by replacing human auctioneer with the keyword recognition system taught in Powell, for recognizing "at least one word in at least one of the email message to determine automatically a desired action of said email without requiring a special form for the email to recognize said at least one word".

Applicants further argues that Fisher does not teach automatically recognizing phrases that include the word "bid". Column 2, line 11-20 of Fisher discloses in prior email auction scheme, an auctioneer reads the email from the bidder to recognize any bidding command. It would have been obvious that such email would contain the word "bid" and that the auctioneer would recognize the word "bid" and act accordingly. Examiner combines the Fisher reference with Powell to replace human labor with automated computer system to produce predictable result. Thus, it would have been obvious the combination of Fisher and Powell can recognize the word "bid" and take action accordingly.

**Applicant's argument #3: as per claim 9, 10, 12, 25, 28, 29, and 66, Fishes does not describe a session identification indicator.**

Fisher discloses that "electronic mail notification messages preferably contain the relevant merchandise information, the current high bid, the bid increment, etc" (see column 6, line 49-54). Examiner reasons that the above information in Fisher's email identifies a specific auction, and thus said information is interchangeable with the session identification indicator. Examiner further argues that session ID is necessary for the bidder and the auction system to know which item the email is corresponding to. If the email does not contain an unambiguous session ID, the bidder and the auction system would have no idea which auction item the email is dealing with, and thus make the prior art inoperable. Therefore, Fisher's invention is required to have a session identification information in the notification email.

Applicant's argue that column 6, lines 49-54 of Fisher teaches away from a unique session ID. However, the cited portion of the prior art does not exclude session ID. Fisher states, "[T]hese electronic mail notification messages preferably contain the relevant merchandise information, current high bid, the bid increment, etc." Nowhere in Fisher does the prior art teach away from session identification information.

**Applicant's argument #4, as per claim 13, 14, 30, and 67, Fisher in view of Powell does not teach session ID is included as part of a return address in the email message.**

Examiner notes that the ability to "enter a new bid by replying to the electronic mail message and sending it back to the system" as taught in Fisher (see column 6, line 46-57) represents applicant's session ID included as part of a return address. Examiner

reasons that session identificaiton information is necessary for the bidder and the system to know which item the email is corresponding to. Moreover, if session ID is not included as part of a return address, the prior art system would not know where to send the reply email. An auction site deals with thousands or millions of auction a day. Without some sort of identification for each auction session, the prior system would be inoperable.

**Applicant's argument #5, as per claim 3, 4, and 68, applicant traverses the official notice to the extent that it is attempting to estblish that cell phone could be used to send or receive bid messages of the type claimed.**

Applicant admits that cell phones were known to send and receive email (see specification and page 32 of appeal brief). Since the bidder's command is merely written in plain text and the cell phones do not need to perform any conversion to produce the email as claimed, applicant's argument is unpersuasive.

**Applicant's argument #6, as per claim 5, the combination of Fisher, Powell, and Feinberg does not teach user ID and password are sent as part of email messages.**

Feinberg teaches an automated auction system, in which users are required to submit a user-name and password with each bid. The prior art teaches that this is done as a security measure to verify the user. The combination of Fisher and Powell teaches placing a bid via email. Therefore, if the combination of Fisher and Powell were to be

modified to increase security level, one of ordinary skill in the art would come up with requiring a user-name and password for each bid via email. The combination of user ID and password as security measure was well known and widely used prior to the present application.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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